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APR 1 1997

Federal Communications Commission
Office of Secretary

April 1, 1997

VIA HAND DELIVERY

William F. Caton, Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, DC 20554

Re: Watertown Radio Associates Limited Partnership
WXPS(FM), Vergennes, Vermont
Amendment to Petition for Rulemaking

Dear Mr. Caton:

Watertown Radio Associates Limited Partnership, by its attorneys, hereby files an original and five copies of its Amendment to Petition for Rulemaking for the above-referenced station.

Please direct any questions concerning this matter to the undersigned.

Respectfully submitted,

David G. O'Neil
David G. O'Neil

DGO:las
Enclosures (6)

cc(w/encl): Ms. Pamela Blumenthal (via hand delivery)

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

APR 1 1997

Federal Communications Commission
Office of Secretary

In re Petition of)	
)	
Watertown Radio Associates)	MM Docket No. 96-_____
Limited Partnership)	
)	
Amendment of Section 73.202(b),)	RM-_____
FM Table of Allotments,)	
Vergennes, Vermont and)	
Willsboro, ¹ New York)	

AMENDMENT TO PETITION FOR RULE MAKING

Watertown Radio Associates Limited Partnership, ("Watertown Radio"), pursuant to Section 1.401 of the Commission's Rules and by its attorneys, hereby submits its amendment to the above-referenced petition for rule making ("Amended Petition") to amend Section 73.202(b) of the Commission's Rules to delete Channel 244A, Vergennes, Vermont, add Channel 244A, Willsboro, New York and modify the authorization for WXPS(FM), Vergennes, Vermont to operate on Channel 244A at Willsboro, New York.² In support thereof, the following is hereby shown:

1. Watertown Radio is licensed to operate FM Radio Broadcast Station WXPS(FM), Vergennes, Vermont on Channel 244A. Two

¹ The amendment proposes to substitute the community of Willsboro for Keeseville and modify the authorization for WXPS(FM) accordingly. The caption has been changed accordingly.

² On October 4, 1996, Lakeside Broadcasting Corporation, the previous licensee of WXPS(FM), filed a petition for rule making to amend the FM Table of Allotments to change the community of license for WXPS(FM) to Keeseville, New York. Because of Commission concerns that WXPS(FM) could not provide the required city grade signal over Keeseville, Watertown Radio is filing this Amended Petition to change the community of license to Willsboro.

commercial Radio Broadcast Stations are licensed to Vergennes, Vermont; WXPS(FM) and WIZN(FM).

2. The instant Amended Petition proposes to delete Channel 244A from Vergennes, Vermont, add Channel 244A to Willsboro, New York and modify the authorization for WXPS(FM) accordingly. Commission grant of this Amended Petition would comply with the requirements of Section 1.420(i) of the Commission's Rules and serve the public interest.

3. Section 1.420(i) authorizes the Commission to amend Section 73.202(b) (the "FM Table of Allotments") to specify a new community of license where the proposed allotment would be mutually exclusive with the licensee or permittee's present allotment. See 47 C.F.R. 1.420(i). In addition, the petition to change the community of license must serve the Commission's allotment priorities and policies³ better than the allotment in the current community and not deprive the current community of its sole local transmission outlet. See Amendment of the Commission's Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License, 5 FCC Rcd 7094, 7094 (1990).

4. The proposed allotment complies with Section 1.420(i). As demonstrated in the Engineering Statement of Robert M. Smith, Jr., allotment of Channel 244A to Willsboro is mutually exclusive with

³ The FM priorities are: (1) first aural service; (2) second aural service; (3) first local service; and (4) other public interest matters. Co-equal weight is given to priorities (2) and (3). See Revision of FM Assignment Policies and Procedures, 90 FCC 2d 88, 92 (1982) ("FM Assignment Policies").

the present allotment of Channel 244A at Vergennes, Vermont. See Engineering Statement of Robert M. Smith at 2. ("Engineering Statement").⁴ Thus, the Petition satisfies the requirements of Section 1.420(i).

5. The proposed allotment is fully-spaced to all domestic allotments. See Engineering Statement at 2. The proposed allotment will also be fully-spaced to Canadian radio stations, provided that a restriction of facilities for the proposed allotment is imposed. Id. Watertown Radio requests that the Commission coordinate the restriction with Canada.

6. The proposed allotment better serves the public interest than the current allotment to Vergennes. The Amended Petition proposes providing first local service to Willsboro, the third priority under the Commission's FM Assignment Policies. The present allotment of Channel 244A to Vergennes does not satisfy any of the first three priorities, but may qualify for the fourth and lowest priority. Allocation of first local service to Willsboro (the third priority) better serves the public interest than retention of Channel 244A at Vergennes (the fourth priority).

7. The amendment of the FM Table of Allotments to move Channel 244A to Willsboro will not deprive Vergennes of its sole local transmission outlet. Two commercial radio broadcast stations are licensed to provide local service to Vergennes. Amendment of the FM Table of Allotments to move Channel 244A to Willsboro will

⁴ Mr. Smith's Engineering Statement is attached hereto as Exhibit 1.

still leave one operational commercial radio broadcast station licensed to Vergennes. Thus, Vergennes will still receive first local service.

8. Willsboro is a community for allotment purposes. Willsboro was incorporated in 1788. Willsboro has a population of 1,736 and has its own elected government consisting of a town supervisor, town council (four members), a highway supervisor, town clerk/tax collector and two justices. Willsboro has its own fire department, bank, pharmacy, restaurants, gas stations, supermarkets, car dealership and a downtown business area. Willsboro also has a library (Payne Memorial Library), public schools (Willsboro Central School, serving kindergarten through grade twelve), and post office. Willsboro also has four churches, its own zip code, hospital and health care center (Smith House Health Care Center) and various civic organizations (Kiwanis, Parent-Teacher Student Alliance, Knights of Columbus and Willsboro Business Group).

9. The city grade signal (70 dBu) of the proposed station at Willsboro will cover 50% or more of Burlington, Vermont. Consequently, Watertown Radio is required to make a showing that Willsboro is a separate community from Burlington. See Chattahoochee, Florida, 10 FCC Rcd 10352, 10354 (Chief, Allocations Branch) (1995). As demonstrated below, Willsboro is a separate community independent of Burlington.

10. In determining whether a proposed allotment qualifies for first local service or should be considered part of the Urbanized

Area, the Commission considers three criteria. Chattahoochee, Florida, 10 FCC Rcd at 10355. First is the extent to which the proposed station could provide service not only to Willsboro, but to Burlington as well. Id. Second is the size of Willsboro relative to Burlington, its proximity to Burlington, and whether Willsboro is within or outside but proximate to the Urbanized Area of Burlington. Id. Third is the interdependence of Willsboro with Burlington. Id.

11. The city grade signal for the proposed station at Willsboro covers approximately 65% of Burlington. The Willsboro station will not be able to provide service to the entire community of Burlington. Burlington has a population of 39,127 whereas Willsboro has a population of 1,736. The city limits of the two communities are approximately ten miles apart.

12. Willsboro is independent of Burlington. Willsboro is located in New York State, not Vermont. Lake Champlain separates the two communities by almost ten miles. There is no regular transportation service between the two communities. Willsboro and Burlington are served by separate area codes.

13. The majority of Willsboro residents do not work in Burlington but instead work in and around Willsboro at Commonwealth Fashion and NYCO Minerals, Inc. Willsboro is served by a local newspaper, the Valley News; has its own elected officials; its own zip code; local telephone book, the Ausable Valley Phone System; and has its own commercial establishments and health facilities, as described in paragraph 8, supra. Willsboro has its own fire

department, library, post office and public school system. Willsboro does not rely upon Burlington for any municipal services. Willsboro and Burlington are separate advertising markets.

14. Willsboro satisfies the Chattahoochee, Florida standard as a separate community independent from Burlington. Willsboro is separate in size and proximity from Burlington and satisfies at least seven of the eight elements in support of a determination that Willsboro and Burlington are not interdependent.

15. If the Amended Petition is granted, Watertown Radio will file an application for construction permit to construct and operate WXPS(FM) on Channel 244A, Willsboro, New York, and expeditiously construct the new facility.

CONCLUSION

Watertown Radio proposes that the FM Table of Allotments be amended as follows:

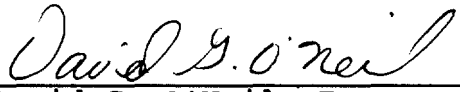
<u>Location</u>	<u>Current Allocation</u>	<u>Proposed Allocation</u>
Vergennes, VT	244A	----
Willsboro, NY	----	244A

Watertown Radio further proposes that the license of WXPS(FM) be modified to specify operation on Channel 244A at Willsboro, New York. The proposed channel substitutions satisfies the requirements of Section 1.420(i) and serves the public interest by providing first local service to Willsboro while retaining first local service in Vergennes. The Petition is a preferential allotment under the Commission priorities for assigning FM allotments.

WHEREFORE, for the foregoing reasons, it is respectfully submitted that public interest would be served by amending the FM Table of Allotments as proposed herein.

Respectfully submitted

**WATERTOWN RADIO ASSOCIATES
LIMITED PARTNERSHIP**



David G. O'Neil, Esq.

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Washington, DC 20036
(202) 296-2007

Its Attorney

April 1, 1997

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**AMENDMENT TO
ENGINEERING STATEMENT**

**In Support of:
PETITION FOR RULE MAKING**

**By:
WATERTOWN RADIO ASSOCIATES, L.P.**

March 1997

PETITION FOR RULE MAKING

By:

WATERTOWN RADIO ASSOCIATES, L.P.

PURPOSE AND SCOPE

This Amended Engineering Statement is prepared in support of Watertown Radio Associates, L.P. ("Watertown Radio") ^{1/} Petition for Rule Making ("Petition") to amend the FM Table of Allotments in 47 C.F.R. 73.202(b), by the deletion of Channel 244A, Vergennes, Vermont and addition of Channel 244A, Willsboro, New York.

ALLOCATION SITUATION

Figure 1 of this Statement is a portion of a U.S. Geological Survey 7.5 X 15 Minute Topographic Quadrangle (Willsboro Bay) showing the proposed Allotment site at N44-24-11, W73-26-03. The proposed site is located in the town of Willsboro, Essex County, New York. The ground level at the proposed site is 398 meters above mean sea level.

^{1/} Watertown Radio is the licensee of WXPS(FM), Channel 244A, Vergennes, Vermont (F.C.C. File No. BLH-960702KB) and is operating the facility from the licensed site in Westport, New York. Upon grant of the Petition, Watertown Radio intends to file for a Construction Permit to move the facility to the allotment site proposed herein.

ALLOCATION SITUATION (Continued)

DOMESTIC SITUATION:

The site proposed for the allotment meets all spacing requirements to all domestic allotments or permitted/licensed facilities as specified in 47 C.F.R. 73.207(b)(1)^{2/} except the present Vergennes allotment with which it is mutually exclusive. No other modifications to the FM Table of Allotments is required nor requested by this Petition.

The proposed mountain top is presently being utilized as a communications site and is about 100' southwest of the antenna site for WCPV(FM), Essex, New York, a UHF TV translator and a cellular telephone outlet.

CANADIAN SITUATION

The present allotment site at N44-10-00, W73-15-18 is a specially negotiated short-spacing, proposed to Canada as a Class B1 operation on January 31, 1992 and accepted by Canada on May 5, 1992. The present allotment is short-spaced to CKOI-FM, Verdun, QU.

The proposed allotment site is also short-spaced per the requirements of 47 C.F.R. 73.207(b)(2) to CKOI-FM.

Watertown Radio requests that the proposed allotment be treated as a Class B1 allotment with a restriction on facilities limited to 1.9 kW ERP at an Effective Antenna Height of 246 meters above average terrain with respect to Canada. At this ERP and HAAT the 34 dBu f(50,10) contour from the proposed allotment extends no further toward CKOI-FM (or in any direction toward Canada) than does the 34 dBu f(50,10)

^{2/} The present allotment site, but not the present operation, is short-spaced to WLTN-FM, Lisbon, New Hampshire. This proposal eliminates the allotment short spacing which occurred as a result of the provisions of MM Docket 88-375. A full spacing study for the proposed allotment site is included in Table 1.

ALLOCATION SITUATION (Continued)

CANADIAN SITUATION (Continued)

contour generated by a maximum Class B1 facility at the present allotment site. Figure 2 of this Statement is a portion of a New York and Montreal Sectional Aeronautical Chart showing the 34 dBu f(50,10) contours from a maximum Class B1 facility at the present allotment site and a 1.9 kW 246 meter HAAT facility from the proposed allotment site.

Watertown Radio believes this proposal should be acceptable to Canada since the new allotment affords more protection to the operation of CKOI-FM than does the present allotment.

ENVIRONMENTAL CONSIDERATIONS

All of the land area within which a Class A facility could be constructed to provide 70 dBu service to Willsboro, New York is within the boundaries of the New York State Adirondack Park. All construction within that Park requires a permit from the Adirondack Park Agency ("APA"). It is the firm policy of the APA to limit construction of towers, antennas and communications facilities to sites on which such facilities already exist. The proposed site is the only such communication site within the area capable of providing 70 dBu service to Willsboro.

The undersigned, in discussions with APA staff, has been assured that a plan to install a new tower at the proposed site falls within the APA policy of consolidation of facilities, and that any proposal to construct a new tower at any other site definitely is not within the guidelines of that policy.

COMPLIANCE WITH 47 C.F.R. 73.315

A maximum Class A facility (0.9 kW, 246 meters HAAT) at the proposed site provides 70 dBu f(50,50) coverage of the entire community of Willsboro, NY. Figure 3 of this Statement shows the 70 dBu contour generated by a maximum Class A facility and the corporate boundaries of Willsboro, NY.

COMPLIANCE WITH 47 C.F.R. 73.315 (Continued)

The present operation of WXPS(FM) does not provide 70 dBu coverage of Willsboro due to terrain shielding between the present site and portions of Willsboro. Operation of a maximum Class A facility from the proposed Allotment site does not provide 70 dBu coverage to Vergennes, VT.

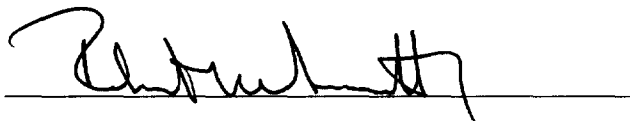
The site proposed has no population within the immediate vicinity of the antenna and is on the highest point available consistent with environmental considerations outlined above.

CONCLUSIONS

Watertown Radio believes this Petition is consistent with the technical requirements of the Federal Communications Commission's rules, regulations and policies regarding FM allotments. Watertown Radio also believes that this Petition should be acceptable to the government of Canada since it provides greater protection, to Canadian stations, from interference than is provided by the present allotment.

A grant of this petition will provide the first local service to Willsboro, New York and will not eliminate the first local service from Vergennes, Vermont. ^{4/}

^{4/} Channel 294C2 is allotted to Vergennes, VT and is licensed as WIZN(FM).

A handwritten signature in black ink, appearing to read "Robert M. Smith Jr.", is written over a horizontal line.

Robert M. Smith Jr.

FM SPACING STUDY

Title: TABLE 1 - Willsboro, NY - Proposed Allotment Site

Channel Studied: 244
Safety Zone (km): 50

Latitude: 44-24-11
Longitude: 073-26-03

Chan Freq Auth.	City Licensee FCC File No.	St Call	ERP-kW EAH-m	Latitude Longitude	Dist Br-To	Required Clearance Result
241A 96.1 APP	Warren Radio Vermont, Inc. BPH-961203IB	VT WDEVFM	0.096 703	44- 7-37 72-55-43	50.7 127.2	31 19.7 CLEAR
241A 96.1 USED	Warren -	VT ALLOC		44- 5-43 72-51-23	57.4 126.5	31 26.4 CLEAR
241A 96.1 LIC	Warren Radio Vermont, Inc. BLH-890821KB	VT WDEVFM	0.048 703	44- 7-37 72-55-43	50.7 127.2	31 19.7 CLEAR
243A 96.5 LIC	Malone L.C.C. Media, Inc. BLH-920511KF	NY WVN	2.4 110	44-49-37 74-22-46	88.6 302.1	72 16.6 CLEAR
243A 96.5 USED	Malone -	NY ALLOC		44-51- 0 74-17-42	84.5 306.0	72 12.5 CLEAR
244A 96.7 USED	Lisbon -	NH ALLOC		44-12-48 71-54-48	123.2 99.8	115 8.2 CLOSE
244A 96.7 LIC	Canton B & B Broadcasting, Inc. BLED-3956	NY WVNC	2.6 94	44-32- 1 75- 5-50	133.1 276.3	115 18.1 CLEAR
244A 96.7 LIC	Lisbon Profile Broadcasting Company, Inc. BLH-940711KC	NH WLTNFM	6.0 90	44-13-11 71-52- 7	126.6 99.3	115 11.6 CLEAR
244A 96.7 USED	Vergennes -	VT ALLOC		44-10- 0 73-15-18	29.9 151.4	115 -85.1 SHORT
244A 96.7 USED	Canton -	NY ALLOC		44-32- 1 75- 5-50	133.1 276.3	115 18.1 CLEAR
244A 96.7 LIC	Vergennes Lakeside Broadcasting Corporation BLH-960702KB	VT WXPS	6.0 88	44-13-14 73-24-35	20.4 174.5	115 -94.6 SHORT

FM SPACING STUDY

Title: TABLE 1 - Willsboro, NY - Proposed Allotment Site

Channel Studied: 244
Safety Zone (km): 50

Latitude: 44-24-11
Longitude: 073-26-03

Chan	City	St	Call	ERP-kW	Latitude	Dist	Required
Freq	Licensee			EAH-m	Longitude	Br-To	Clearance
Auth.	FCC File No.						Result

245C1	Verdun	QU	CKOIFM	310.0	45-29-54	122.2	181
96.9				217	73-34-16	354.9	-58.8
	-						SHORT

246C2	Rutland	VT	WZRT	1.15	43-36-17	101.4	55
97.1	H & D Communications Limited Partner			790	72-49-14	151.0	46.4
LIC	BLH-850823LN						CLEAR

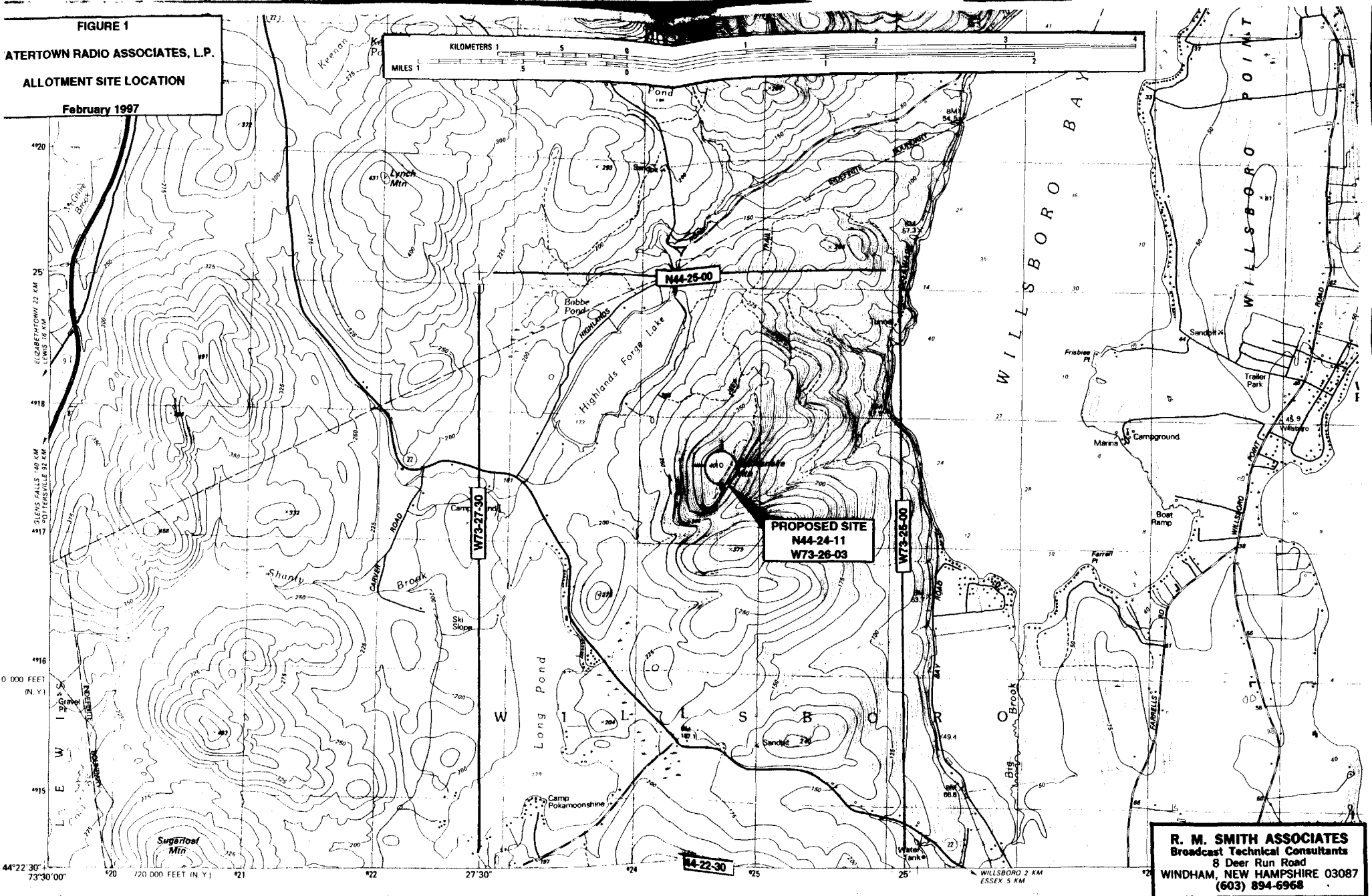
246C2	Rutland	VT	ALLOC		43-36-17	101.4	55
97.1					72-49-14	151.0	46.4
USED	-						CLEAR

FIGURE 1

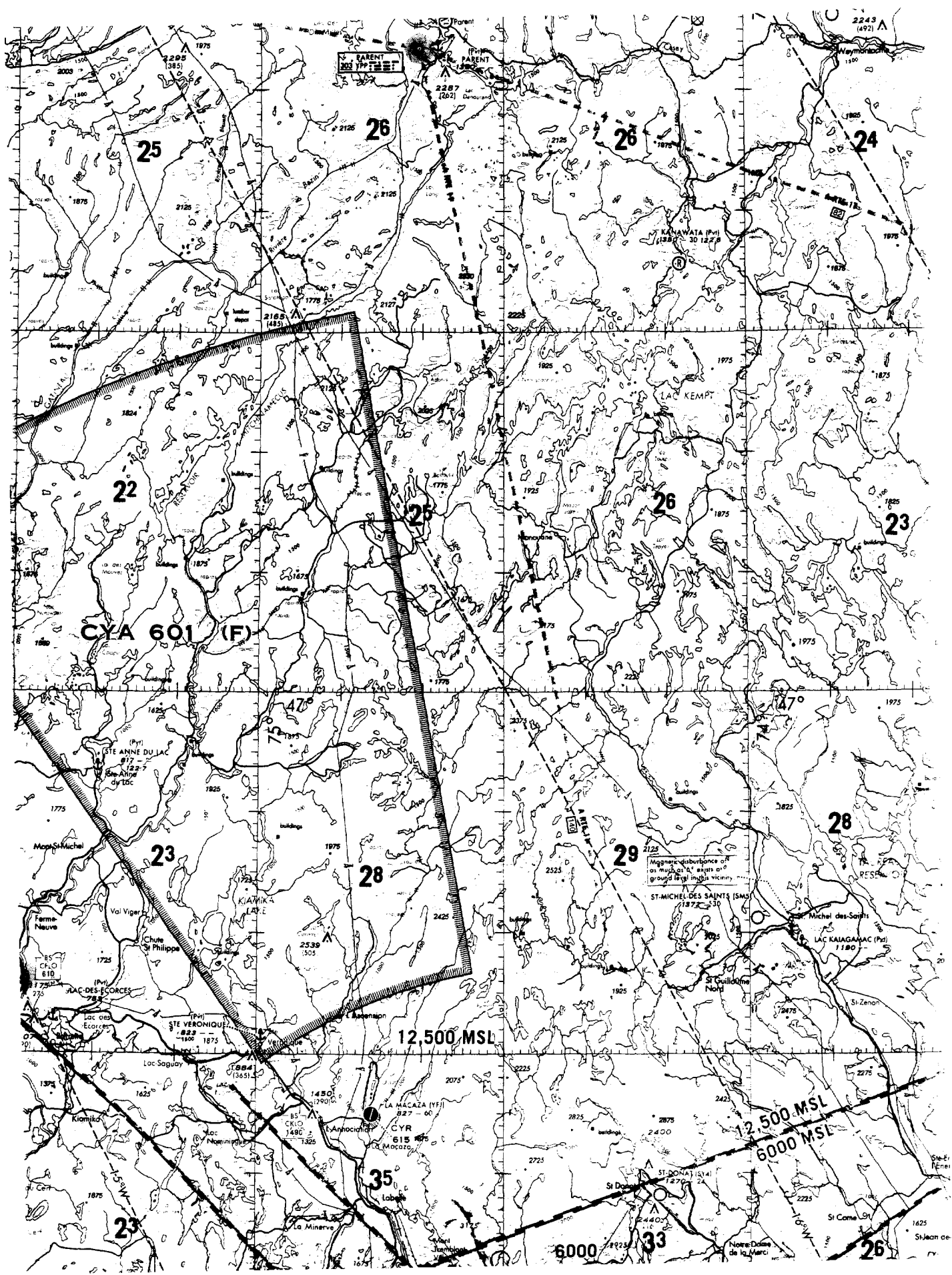
ATERTOWN RADIO ASSOCIATES, L.P.

ALLOTMENT SITE LOCATION

February 1997



R. M. SMITH ASSOCIATES
Broadcast Technical Consultants
8 Deer Run Road
WINDHAM, NEW HAMPSHIRE 03087
(603) 894-6968



RADIO ASSOCIATES
PARTNERSHIP

1 SITE CONTOURS

January 1997



MITH ASSOCIATES
Technical Consultants
Deer Run Road
NEW HAMPSHIRE 03087
(603) 894-6968

PROPOSED SITE
N44-24-11
W73-26-03

PROPOSED 34 DBU
F(50,10)

KILOMETERS SCALE 1:500,000

0 10 20 30 40 50 60 70 80 90

Joins New York

73°

30'

12-

5.

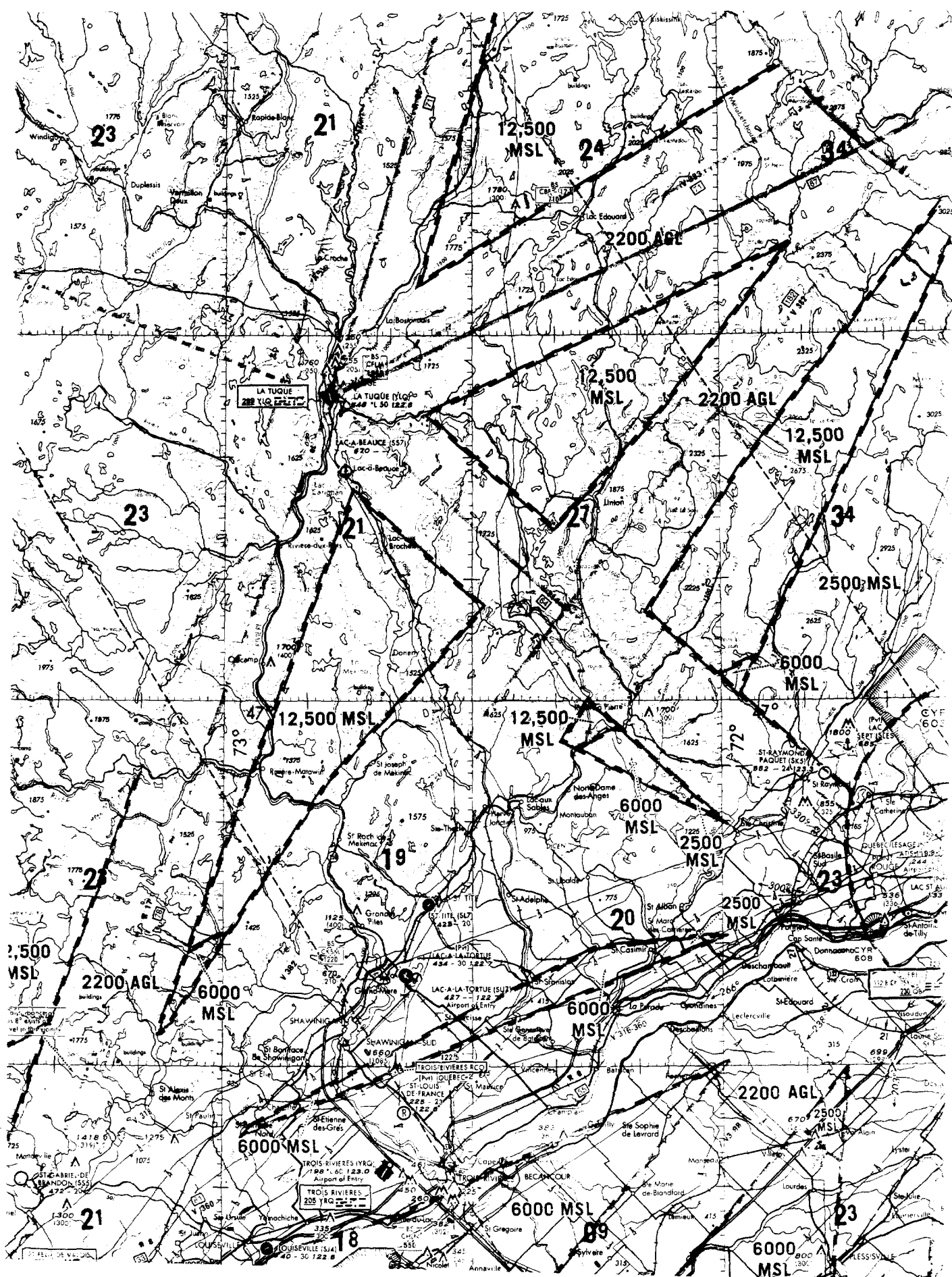


FIGURE 3

WATERTOWN RADIO ASSOCIATES
LIMITED PARTNERSHIP

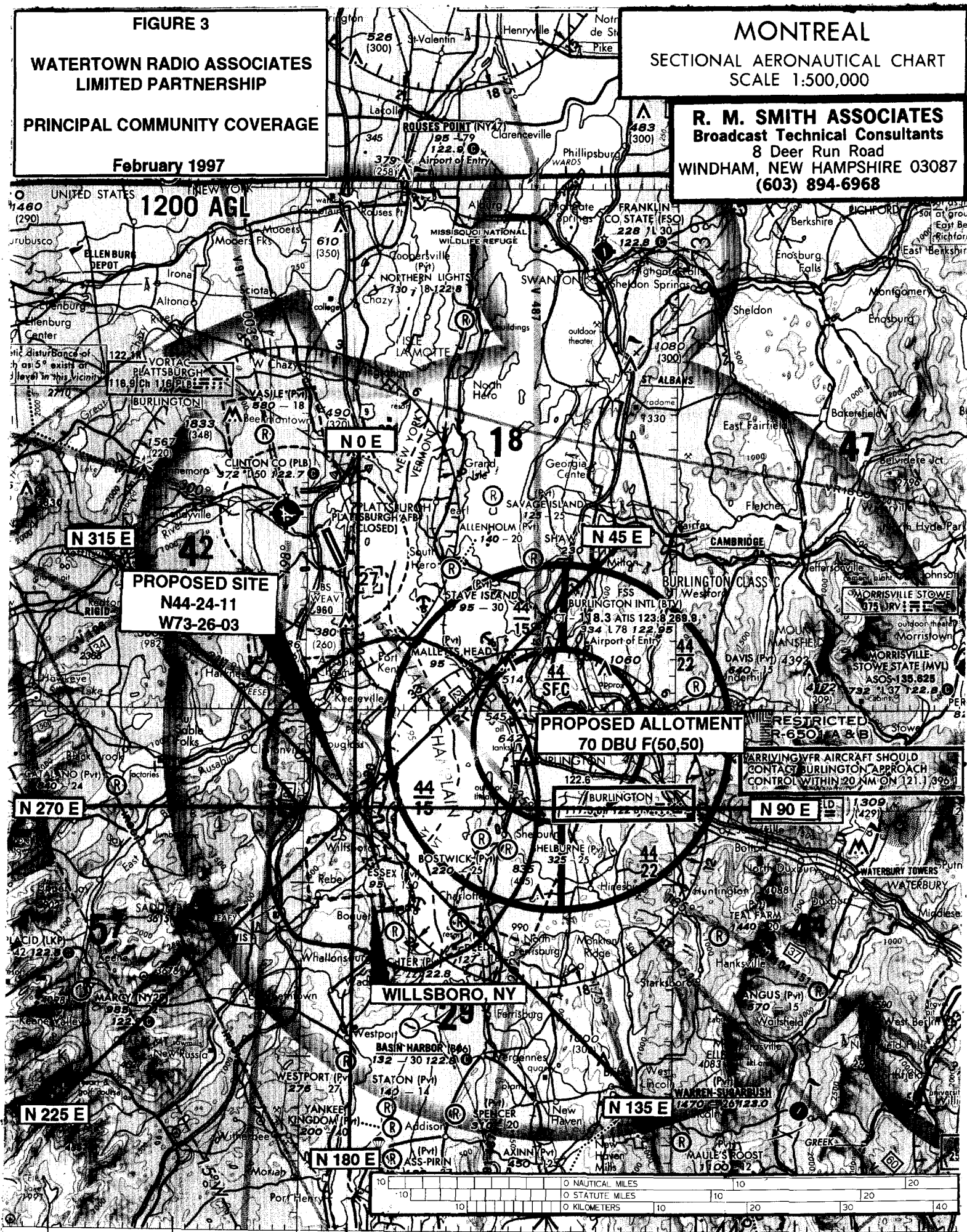
PRINCIPAL COMMUNITY COVERAGE

February 1997

MONTREAL

SECTIONAL AERONAUTICAL CHART
SCALE 1:500,000

R. M. SMITH ASSOCIATES
Broadcast Technical Consultants
8 Deer Run Road
WINDHAM, NEW HAMPSHIRE 03087
(603) 894-6968



30'

Joins New York

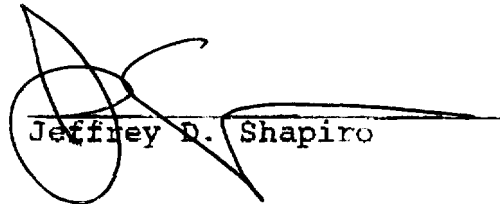
73°

BREADLOAF WILDERNESS AREA

DECLARATION OF JEFFREY D. SHAPIRO

I, Jeffrey D. Shapiro, hereby declare that I am President of the General Partner of Watertown Radio Associates Limited Partnership ("Watertown Radio") and as such have reviewed the "Amendment To Petition for Rule Making" that Watertown Radio is filing with the Commission on behalf of WXPS(FM), Vergennes, Vermont. I hereby declare under the penalty of the perjury that the foregoing is true and correct.

Executed on this 26th day of March, 1997.



Jeffrey D. Shapiro